

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

FIRST REGULAR SESSION
FIFTY-NINTH LEGISLATURE

SEVENTY-EIGHTH LEGISLATIVE DAY
MONDAY, MARCH 26, 2007

Senate Chamber

President Risch called the Senate to order at 9:30 a.m.

Roll call showed all members present except Senators Burkett and Werk, absent and formally excused by the Chair; and Senators Cameron, Fulcher, Goedde, Malepeai, Pearce, Stegner, and Stennett, absent and excused.

Prayer was offered by Chaplain Goebel.

The Pledge of Allegiance was led by John Tobiasson, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of March 23, 2007, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senators Fulcher, Goedde, Malepeai, Pearce, Stegner, and Stennett were recorded present at this order of business.

March 23, 2007

The JUDICIARY AND RULES Committee reports that **S 1131, S 1142, S 1147, S 1149, S 1153, S 1157**, as amended, **S 1159**, as amended, **S 1166, S 1169, S 1179, S 1182, S 1183, S 1184, S 1185**, and **SCR 120** have been correctly enrolled.

DARRINGTON, Chairman

The President signed Enrolled **S 1131, S 1142, S 1147, S 1149, S 1153, S 1157**, as amended, **S 1159**, as amended, **S 1166**,

S 1169, S 1179, S 1182, S 1183, S 1184, S 1185, and **SCR 120**, and ordered them transmitted to the House for the signature of the Speaker.

March 23, 2007

The JUDICIARY AND RULES Committee reports that Enrolled **S 1128**, as amended, **S 1136**, as amended, **S 1143, S 1173, S 1204, S 1206, S 1207, S 1208, S 1209, S 1210, S 1211**, and **S 1212** were delivered to the Office of the Governor at 2:35 p.m., March 23, 2007.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

March 23, 2007

The JUDICIARY AND RULES Committee reports that Enrolled **SCR 115** and **SCR 119** were delivered to the Office of the Secretary of State at 2:01 p.m., March 23, 2007.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

March 23, 2007

The FINANCE Committee reports out **H 327** and **H 328** with the recommendation that they do pass.

CAMERON, Chairman

H 327 and **H 328** were filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

March 26, 2007

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that I have appointed Brian Cronin of Boise, Idaho, to be Acting State Senator for Legislative District 19. This appointment will be effective March 26, 2007, and continue until such time as Senator Burkett is able to resume his duties.

As Always, Idaho - *Esto Perpetua*
/s/ C. L. 'Butch' Otter
Governor

THE OFFICE OF THE GOVERNOR
EXECUTIVE DEPARTMENT
BOISE, IDAHO
CERTIFICATE OF APPOINTMENT

KNOW ALL MEN, by these Presents that pursuant to the provisions of Section 59-917, *Idaho Code*, Mike Burkett, State Senator, District 19, Ada County, State of Idaho, has nominated Brian Cronin of Boise, Idaho, to perform the duties of this office temporarily as Acting State Senator, District 19, Ada County.

NOW, THEREFORE, I, C. L. 'Butch' Otter, Governor of the State of Idaho, by virtue of the authority vested in me do hereby appoint Brian Cronin to the office of State Senator, District 19, Ada County, State of Idaho, for a term commencing on March 26, 2007, and continuing until such time as Senator Burkett is able to resume his duties.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho.

Done at Boise, the Capital of Idaho, this twenty-sixth day of March, in the year of our Lord Two thousand and seven and of the Independence of the United States of America, the two hundred and thirty-first year.

/s/ BY THE GOVERNOR C. L. 'BUTCH' OTTER
/s/ SECRETARY OF STATE BEN YSURSA

The correspondence and Certificate of Appointment were ordered filed in the office of the Secretary of the Senate.

The President announced that the Oath of Office had been administered previously to Acting Senator Brian Cronin, and he was recorded present at this order of business.

March 26, 2007

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that I have appointed Kurt Douglas of Boise, Idaho, to be Acting State Senator for Legislative District 17. This appointment will be effective March 26, 2007, and continue until such time as Senator Werk is able to resume his duties.

As Always, Idaho - *Esto Perpetua*
/s/ C. L. 'Butch' Otter
Governor

THE OFFICE OF THE GOVERNOR
EXECUTIVE DEPARTMENT
BOISE, IDAHO
CERTIFICATE OF APPOINTMENT

KNOW ALL MEN, by these Presents that pursuant to the provisions of Section 59-917, *Idaho Code*, Elliot Werk, State Senator, District 17, Ada County, State of Idaho, has nominated

Kurt Douglas of Boise, Idaho, to perform the duties of this office temporarily as Acting State Senator, District 17, Ada County.

NOW, THEREFORE, I, C. L. 'Butch' Otter, Governor of the State of Idaho, by virtue of the authority vested in me do hereby appoint Kurt Douglas to the office of State Senator, District 17, Ada County, State of Idaho, for a term commencing on March 26, 2007, and continuing until such time as Senator Werk is able to resume his duties.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho.

Done at Boise, the Capital of Idaho, this twenty-sixth day of March, in the year of our Lord Two thousand and seven and of the Independence of the United States of America, the two hundred and thirty-first year.

/s/ BY THE GOVERNOR C. L. 'BUTCH' OTTER
/s/ SECRETARY OF STATE BEN YSURSA

The correspondence and Certificate of Appointment were ordered filed in the office of the Secretary of the Senate.

The President announced that the Oath of Office had been administered previously to Acting Senator Kurt Douglas, and he was recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Tenth Order of Business.

Motions and Resolutions

The President announced the State Affairs Committee report relative to the Gubernatorial appointment of Roger L. Jones was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Little, seconded by Senator Stennett, the Gubernatorial appointment of Roger L. Jones as a member of the Idaho State Lottery Commission was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading and Reference of Bills,
House Petitions, Resolutions, and Memorials**

S 1244
BY STATE AFFAIRS COMMITTEE
AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-308, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE RECEIPT OF PRIMARY BALLOTS; AMENDING SECTION 34-404, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO REGISTRATION OF ELECTORS;

AMENDING SECTION 34-406, IDAHO CODE, TO REMOVE A REFERENCE TO MAIL REGISTRATION FORM, TO REVISE A CODE REFERENCE AND TO MAKE TECHNICAL CHANGES; AMENDING SECTION 34-411, IDAHO CODE, TO REVISE PROVISIONS RELATING TO APPLICATION FOR REGISTRATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 4, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-411A, IDAHO CODE, TO PROVIDE FOR THE DESIGNATION OR CHANGE OF PARTY AFFILIATION STATUS; AMENDING SECTION 34-904, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PRIMARY ELECTION BALLOTS; AMENDING CHAPTER 9, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-904A, IDAHO CODE, TO SET FORTH PROVISIONS APPLICABLE TO THE ELIGIBILITY TO VOTE IN PRIMARY ELECTIONS; AMENDING SECTION 34-1002, IDAHO CODE, TO REVISE PROVISIONS RELATING TO APPLICATIONS FOR ABSENTEE BALLOTS AND TO MAKE TECHNICAL CHANGES; AMENDING SECTION 34-1003, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE ISSUANCE OF ABSENTEE BALLOTS.

S 1244 was introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Sixth Order of Business.

Reports of Standing Committees

March 26, 2007

The JUDICIARY AND RULES Committee reports that **S 1244** has been correctly printed.

DARRINGTON, Chairman

S 1244 was referred to the State Affairs Committee.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

Senator Cameron was recorded present at this order of business.

Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 326** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

H 326 was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Richardson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Cameron, Coiner, Corder, Cronin (Burkett), Darrington, Davis, Douglas (Werk), Fulcher, Gannon, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett. Total - 34.

NAYS--None.

Absent and excused--Geddes. Total - 1.

Total - 35.

Whereupon the President declared **H 326** passed, title was approved, and the bill ordered returned to the House.

Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 184**, as amended, were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

H 184, as amended, was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Jorgenson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Broadsword, Cameron, Coiner, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Keough, Little, Lodge, McGee, McKague, McKenzie, Pearce, Schroeder, Stegner. Total - 25.

NAYS--Bilyeu, Corder, Cronin (Burkett), Douglas (Werk), Kelly, Langhorst, Malepeai, Richardson, Siddoway, Stennett. Total - 10.

Total - 35.

Whereupon the President declared **H 184**, as amended, passed, title was approved, and the bill ordered returned to the House.

Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **S 1242** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

S 1242 was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Bair arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Cameron, Coiner, Corder, Cronin (Burkett), Darrington, Davis, Douglas (Werk), Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett. Total - 34.

NAYS--Little. Total - 1.

Total - 35.

Whereupon the President declared **S 1242** passed, title was approved, and the bill ordered transmitted to the House.

Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 328** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

H 328 was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Hammond arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Pursuant to Senate Rule 39(H), Senator McKenzie disclosed a possible conflict of interest under applicable law.

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Cameron, Coiner, Corder, Cronin (Burkett), Darrington, Davis, Douglas (Werk), Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Schroeder, Stegner, Stennett. Total - 32.

NAYS--Pearce, Richardson, Siddoway. Total - 3.

Total - 35.

Whereupon the President declared **H 328** passed, title was approved, and the bill ordered returned to the House.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

On request by Senator Davis, granted by unanimous consent, **H 325** was placed before the Senate for consideration at this time.

H 325 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Cameron arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Cameron, Coiner, Corder, Cronin (Burkett), Darrington, Davis, Douglas (Werk), Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Keough, Langhorst, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner. Total - 32.

NAYS--Kelly, Little, Stennett. Total - 3.

Total - 35.

Whereupon the President declared **H 325** passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Ninth Order of Business.

Messages from the House

March 26, 2007

Mr. President:

I transmit herewith Enrolled **HCR 30** and **HCR 31** for the signature of the President.

JUKER, Chief Clerk

The President signed Enrolled **HCR 30** and **HCR 31** and ordered them returned to the House.

March 26, 2007

Mr. President:

I return herewith Enrolled **S 1078**, as amended in the House, **S 1126**, as amended, as amended in the House, **S 1161**, as amended in the House, **S 1175**, as amended in the House, **S 1205**, **S 1214**, **S 1215**, **S 1216**, **S 1217**, **S 1218**, **S 1219**, **S 1220**, **S 1221**, **S 1222**, **S 1223**, **S 1224**, **S 1226**, and **S 1227** which have been signed by the Speaker.

JUKER, Chief Clerk

Enrolled **S 1078**, as amended in the House, **S 1126**, as amended, as amended in the House, **S 1161**, as amended in the House, **S 1175**, as amended in the House, **S 1205**, **S 1214**, **S 1215**, **S 1216**, **S 1217**, **S 1218**, **S 1219**, **S 1220**, **S 1221**, **S 1222**, **S 1223**, **S 1224**, **S 1226**, and **S 1227** were referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

The President announced that **HCR 32** was before the Senate for final consideration.

Moved by Senator Hammond, seconded by Senator Bilyeu, that **HCR 32** be adopted. The question being, "Shall the resolution be adopted?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Cameron, Coiner, Corder, Cronin (Burkett), Darrington, Davis, Douglas (Werk), Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett. Total - 35.

Whereupon the President declared **HCR 32** adopted, title was approved, and the resolution ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Sixth Order of Business.

Reports of Standing Committees

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate recessed at 11:40 a.m. until the hour of 2:30 p.m. of this day.

RECESS AFTERNOON SESSION

The Senate reconvened at 2:30 p.m. pursuant to recess, President Risch presiding.

Roll call showed all members present except President Pro Tempore Geddes and Senators Cameron, Langhorst, Malepeai, and McGee, absent and excused.

Prior to recess, the Senate was at the Sixth Order of Business, Reports of Standing Committees.

Reports of Standing Committees

Senators Cameron, Langhorst, and Malepeai were recorded present at this order of business.

March 26, 2007

The JUDICIARY AND RULES Committee reports that Enrolled **S 1078**, as amended in the House, **S 1126**, as amended, as amended in the House, **S 1161**, as amended in the House, **S 1175**, as amended in the House, **S 1205**, **S 1214**, **S 1215**, **S 1216**, **S 1217**, **S 1218**, **S 1219**, **S 1220**, **S 1221**, **S 1222**, **S 1223**, **S 1224**, **S 1226**, and **S 1227** were delivered to the Office of the Governor at 12 noon, March 26, 2007.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

March 26, 2007

Mr. President:

I transmit herewith **S 1123**, as amended, as amended in the House, which has passed the House.

JUKER, Chief Clerk

On request by Senator McKenzie, granted by unanimous consent, **S 1123**, as amended, as amended in the House, was referred to the Tenth Order of Business, Motions and Resolutions, for consideration as to possible concurrence in the House amendments.

March 26, 2007

Mr. President:

I transmit herewith **H 329** and **H 210**, as amended, as amended, which have passed the House.

JUKER, Chief Clerk

H 329 and **H 210**, as amended, as amended, were filed for first reading.

March 26, 2007

Mr. President:

I return herewith **S 1230**, **S 1231**, **S 1232**, **S 1233**, **S 1138**, **S 1180**, **S 1202**, and **S 1213** which have passed the House.

JUKER, Chief Clerk

S 1230, **S 1231**, **S 1232**, **S 1138**, **S 1180**, **S 1202**, and **S 1213** were referred to the Judiciary and Rules Committee for enrolling.

March 26, 2007

Mr. President:

I return herewith Enrolled **S 1131**, **S 1142**, **S 1147**, **S 1149**, **S 1153**, **S 1157**, as amended, **S 1159**, as amended, **S 1166**, **S 1169**, **S 1179**, **S 1182**, **S 1183**, **S 1184**, **S 1185**, and **SCR 120** which have been signed by the Speaker.

JUKER, Chief Clerk

Enrolled **S 1131**, **S 1142**, **S 1147**, **S 1149**, **S 1153**, **S 1157**, as amended, **S 1159**, as amended, **S 1166**, **S 1169**, **S 1179**, **S 1182**, **S 1183**, **S 1184**, and **S 1185** were referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

Enrolled **SCR 120** was referred to the Judiciary and Rules Committee for transmittal to the Office of the Secretary of State.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

Senator McGee was recorded present at this order of business.

The President announced that the House amendments to **S 1123**, as amended, as amended in the House, were before the Senate for consideration as to possible concurrence, the question being, "Shall the Senate concur in the House amendments to **S 1123**, as amended, as amended in the House."

On request by Senator McKenzie, granted by unanimous consent, the Senate concurred by voice vote in the House amendments to **S 1123**, as amended, as amended in the House.

S 1123, as amended, as amended in the House, was referred to the Judiciary and Rules Committee for engrossing.

The Senate advanced to the Eleventh Order of Business.

Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

H 329, by Appropriations Committee, was introduced, read the first time at length, and referred to the Finance Committee.

H 210, as amended, as amended, by Revenue and Taxation Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

President Pro Tempore Geddes was recorded present at this order of business.

S 1234 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Hammond arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Keough, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Siddoway, Stegner. Total - 27.

NAYS--Bilyeu, Cronin (Burkett), Douglas (Werk), Kelly, Langhorst, Schroeder, Stennett. Total - 7.

Absent and excused--Malepeai. Total - 1.

Total - 35.

Whereupon the President declared **S 1234** passed, title was approved, and the bill ordered transmitted to the House.

S 1235 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Bastian arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Pursuant to Senate Rule 39(H), Senator Keough disclosed a possible conflict of interest under applicable law.

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Keough, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Siddoway, Stegner. Total - 27.

NAYS--Bilyeu, Cronin (Burkett), Douglas (Werk), Kelly, Langhorst, Malepeai, Schroeder, Stennett. Total - 8.

Total - 35.

Whereupon the President declared **S 1235** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 3:45 p.m. until the hour of 9:30 a.m., Tuesday, March 27, 2007.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary